



Date: May 16, 2014

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Subject: Windermere Ridge Townhomes Category IV Failed Development
Reimbursement and Stormwater Facility Agreement

Executive Summary

Windermere Subdivision is a Category IV Failed Development located on the south side of Infinity Road approximately 1,800 feet east of the intersection of North Roxboro Rd and Infinity Rd. The project is a townhouse development with approximately 43 lots in Phase 1. In 2010, Public Works collected the construction securities totaling \$70,000 for Windermere Ridge Subdivision after the developer went bankrupt and left the first phase of the subdivision incomplete. Working with Southbank after the foreclosure, the Windermere Ridge Home Owners Association, and a neighboring developer J & F Investments, LLC, Public Works and the City Attorney's Office successfully facilitated an infrastructure and stormwater facility agreement to complete the unfinished infrastructure in Phase 1 of the Windermere Ridge Subdivision.

Recommendation

Public Works recommends that City Council authorize the City Manager to enter into a contract for reimbursement of Failed Development funds with J & F Investments, LLC for completion of infrastructure in Windermere Ridge Townhomes Failed Development.

Public Works recommends that City Council authorize the City Manager to enter into a Stormwater Facility Agreement with J & F Investments, LLC and Windermere Ridge Townhome Owner Association, Inc.

Background

Windermere Subdivision is a Category IV Failed Development located on the south side of Infinity Road approximately 1,800 feet east of the intersection of North Roxboro Rd and Infinity Rd. The project is a townhouse development with approximately 43 lots in Phase 1. The previous developer, Charles J. D'Aleo went bankrupt in 2011 prior to completing the street infrastructure for Phase 1 and the shared stormwater facility located on the parcel adjacent to Phase 1. The Public Works Department collected the securities for the street infrastructure (\$10,000) and the stormwater facility (\$60,000) for phase 1 of the project. After the bankruptcy, the property was foreclosed on by SouthBank.

Working with SouthBank, the Windermere Ridge Home Owners Association, and the neighboring developer (J & K Investments, LLC) the Public Works Department and the City Attorney's Office facilitated a solution to complete the stormwater facility and street infrastructure in Phase 1 of the Windermere Subdivision. This would allow the infrastructure to be completed at no cost to the residents and make the property more attractive to developers who wish to purchase the remaining townhome lots in Phase 1. The maximum reimbursable amount to the Developer is \$69,500 of the total \$70,000 in construction securities collected (\$500 has already been allocated to review the engineering design pursuant to a separate contract between the City and J & F, LLC dated November 15, 2011).

Issues/Analysis

The Reimbursement Agreement requires that an amended Stormwater Facility Agreement be recorded after a revised Final Plat is recorded. The proposed Windermere Ridge Townhomes Stormwater Facility Agreement is an amendment to the Stormwater Facility Agreement executed and recorded by J & F Investments, LLC in 2007.

Alternatives

1. Do not approve the Windermere Ridge Townhomes Reimbursement Agreement and the Stormwater Facility Agreement. This would prevent J & F Investments, LLC from completing the street and stormwater infrastructure in Windermere Ridge Phase 1 subdivision failed development. The City would be responsible for completing the street infrastructure in Windermere Ridge by other means, such as including it in a repaving contract. If the street and stormwater infrastructure are not completed by J & F Investments, LLC, the residents would be responsible for the cost of completing the street and stormwater infrastructure and applying to the City for street acceptance. This alternative is not recommended.

Financial Impact

Funds are existing collected funds from construction securities issued by private developers and collected by the City of Durham Public Works Department. City Council approved in April a CIP Ordinance Change that allowed the transfer of the funds from a City of Durham balance holding account to a City of Durham Failed and Struggling Development Capitol Improvement Project account. J & F Investments, LLC will be reimbursed a maximum amount of \$69,500 of collected construction securities after the infrastructure is complete. Note that no City of Durham Tax payer funds will be utilized to complete this infrastructure only development securities collected for the project after it went into bankruptcy.

SDBE Summary

The SDBE Summary is not applicable to this item.